UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Mayo Foundation for Medical Education and Research and Mayo Clinic, Plaintiffs, v. Enterprise Management Limited, Inc. and Mary Lippitt, Defendants.	Court File No. _________ **COMPLAINT AND JURY DEMAND**

Plaintiffs Mayo Foundation for Medical Education and Research and Mayo Clinic for their Complaint against Defendants Enterprise Management Limited, Inc. and Mary Lippitt, state and allege as follows:

THE PARTIES

1. Plaintiff Mayo Foundation for Medical Education and Research and Plaintiff Mayo Clinic (together, "Mayo Clinic") are both Minnesota non-profit corporations with their principal places of business located at 200 First Street SW, Rochester, MN 55905. Mayo Clinic is a world-renowned medical services provider committed to clinical practice, medical education and research, and providing expert care to all.

2. Upon information and belief, Defendant Enterprise Management Limited, Inc. ("Enterprise Management") is a Florida company with its principal place of business at 4531 Roanoak Way, Palm Harbor, FL 34685.

3. Upon information and belief, Defendant Mary Lippitt ("Lippitt") is an individual residing at 4531 Roanoak Way, Palm Harbor, FL 34685.

JURISDICTION AND VENUE

4. This is an action for declaratory judgment of non-infringement of materials protected under United States Copyright Nos. TX 2-124-202, TXu 956-226, and TX 5-827-350 (the "Copyrighted Materials"), arising under the copyright laws of the United States, 17 U.S.C. § 501 et seq., and the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202. The Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

5. Upon information and belief, the Court has personal jurisdiction over Defendants Enterprise Management and Lippitt based on their contacts and communications with persons and entities in the State of Minnesota, including with Mayo Clinic.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

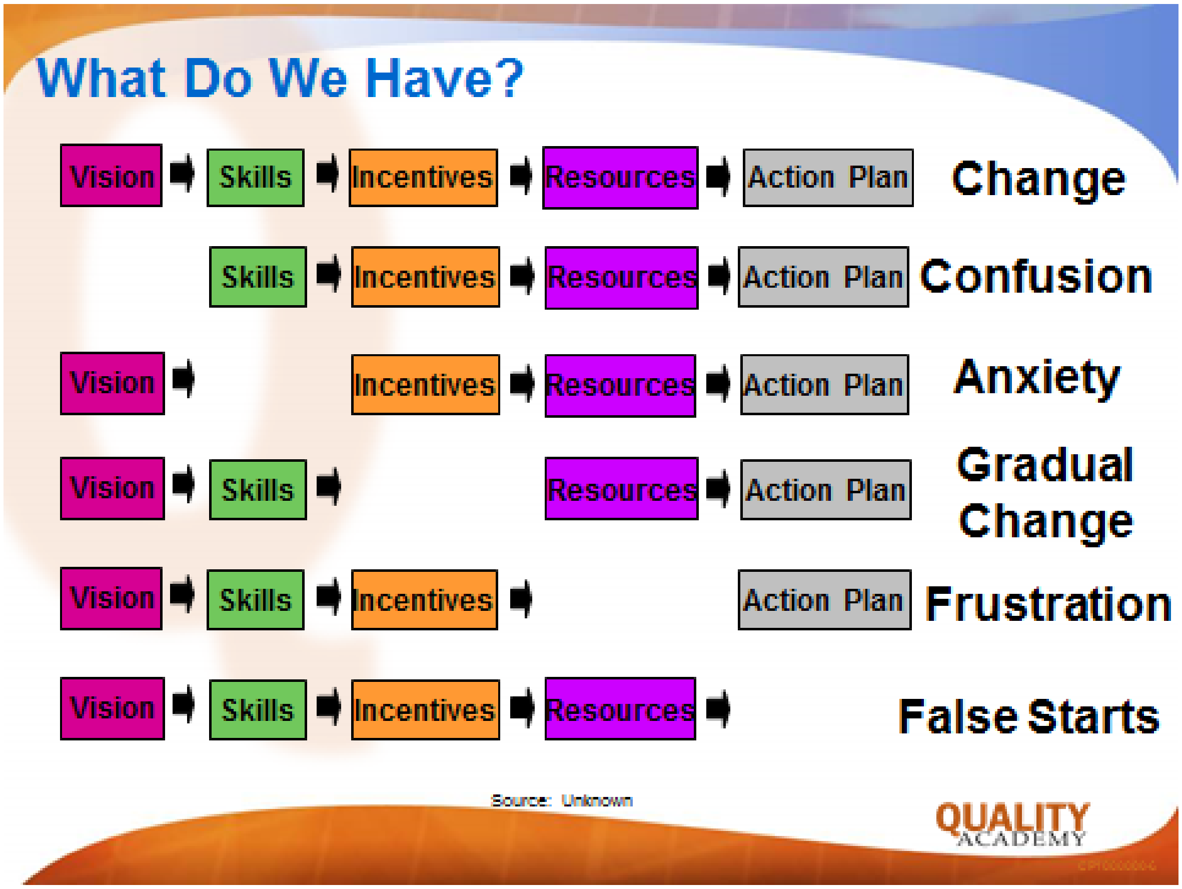
7. An actual controversy exists between Mayo Clinic on the one hand and Enterprise Management and Lippitt on the other regarding infringement of the Copyrighted Materials.

BACKGROUND

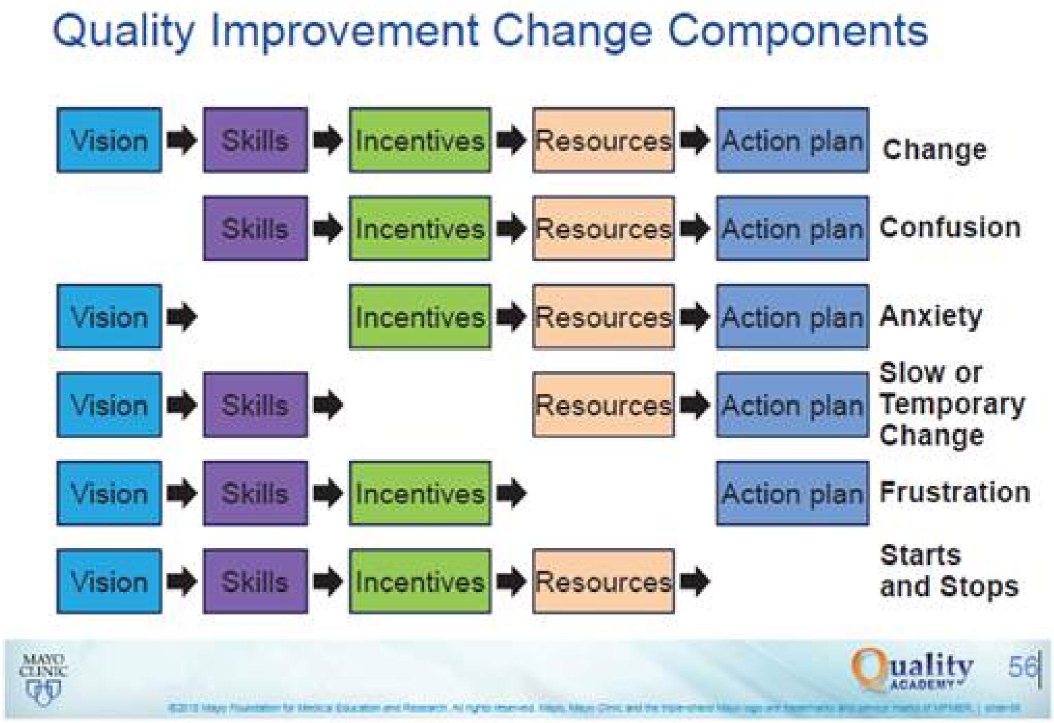
8. Since 2011, an internal training program called the Mayo Clinic Quality Academy has provided a class for Mayo Clinic employees entitled Silver/Applied Quality Essentials. Mayo Clinic developed the curriculum for this class and from 2011 to 2015 Mayo Clinic used a chart reflecting established change management process as part of

that curriculum. Upon information and belief, Mayo Clinic first obtained a copy of its chart from an employee who received a copy of the chart from the employee's former employer. The copy lacked any attribution or indicia of authorship.

9. The chart Mayo Clinic used from 2011 to 2015 is shown below:


What Do We Have?
Vision
Skills
Incentives
Resources
Action Plan
Change
Skills
Incentives
Resources
Action Plan
Confusion
Vision
Incentives
Resources
Action Plan
Anxiety
Vision
Skills
Resources
Action Plan
Gradual Change
Vision
Skills
Incentives
Action Plan
Frustration
Vision
Skills
Incentives
Resources
False Starts
Source: Unknown
QUALITY ACADEMY

10. In 2015, Mayo Clinic changed the chart to the following:


Quality Improvement Change Components
Vision
Skills
Incentives
Resources
Action plan
Change
Confusion
Anxiety
Slow or Temporary Change
Frustration
Starts and Stops
MAYO CLINIC
Quality ACADEMY
56

11. Thereafter, in 2016, Mayo Clinic began reviewing all curricula and other materials used by the Quality Academy to ensure that they were properly attributed to an author. As part of that effort, Mayo Clinic began searching for an author to which it could attribute the above-charts. It did not find the above-charts, but found many such charts, including but not limited to materials promoted by Lippitt and Enterprise Management.

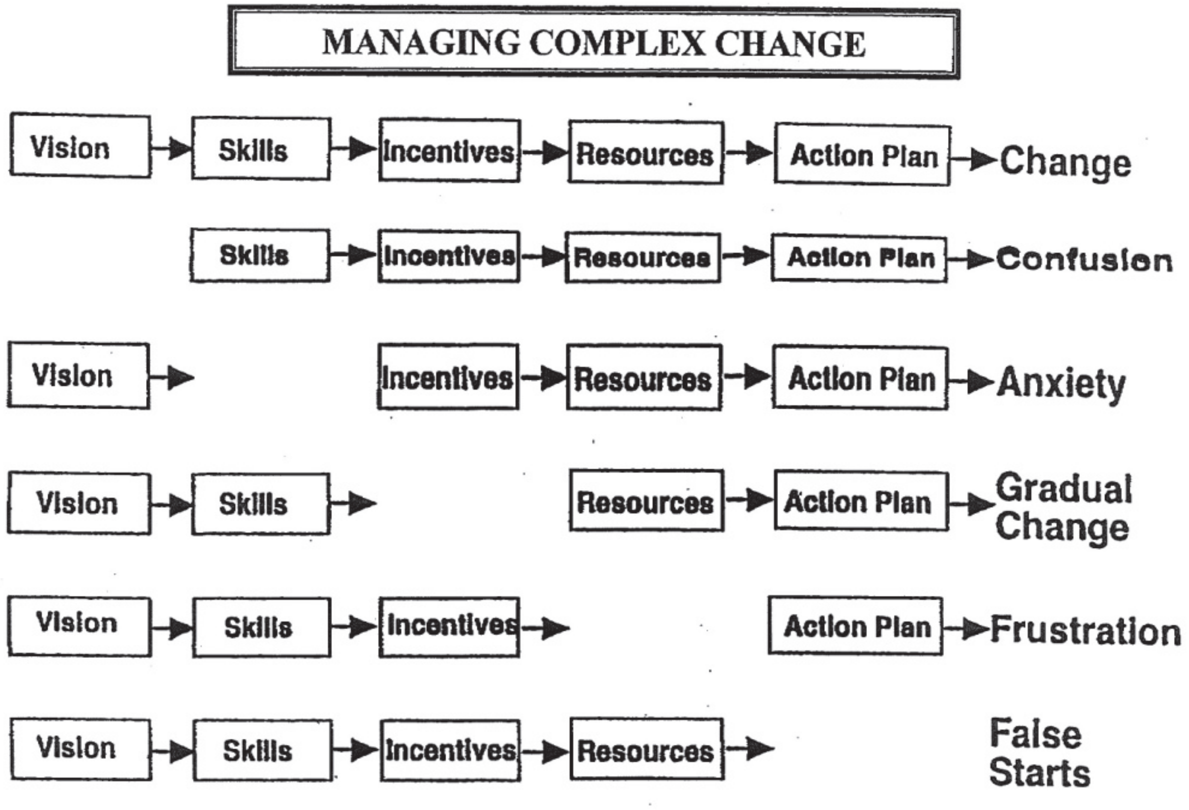
12. Mayo Clinic decided to inquire about a license from Lippitt and Enterprise Management so that Mayo Clinic could incorporate the Copyrighted Materials into the curriculum for its Silver/Applied Quality Essentials class. Thus, on August 18, 2016, Mayo Clinic contacted Lippitt and asked how it could obtain permission to use Lippitt's chart.

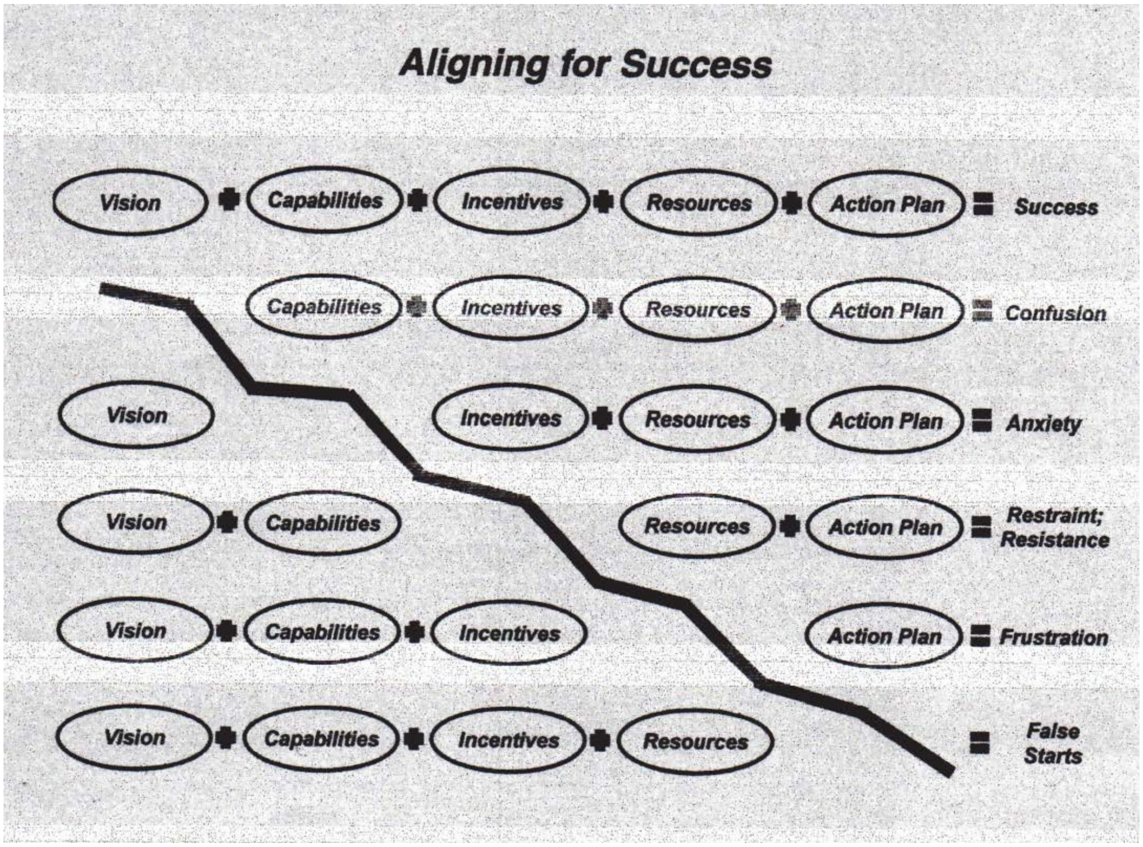
13. Lippitt responded by offering to license the chart that is part of the Copyrighted Materials to Mayo Clinic for five years in exchange for $8,000. Discussions continued between the parties and then, on or about September 23, 2016, Lippitt withdrew her offer and asked for the name and contact information for Mayo Clinic's legal representation.

The Copyrighted Materials

14. Upon information and belief, Lippitt is the owner of the Copyrighted Materials and she licenses them to Enterprise Management for commercial distribution.

15. Upon information and belief, Lippitt created at least two versions of her chart, each of which is, on information and belief, part of the Copyrighted Materials, and are shown below:


MANAGING COMPLEX CHANGE
Vision
Skills
Incentives
Resources
Action Plan
Change
Confusion
Anxiety
Gradual Change
Frustration
False Starts


Aligning for Success
Vision
Capabilities
Incentives
Resources
Action Plan
Success
Capabilities
Incentives
Resources
Action Plan
Confusion
Vision
Incentives
Resources
Action Plan
Anxiety
Vision
Capabilities
Resources
Action Plan
Restraint; Resistance
Vision
Capabilities
Incentives
Action Plan
Frustration
Vision
Capabilities
Incentives
Resources
False Starts

Lippitt's Infringement Allegations

16. After Lippitt withdrew her offer to license the Copyrighted Materials for five years in exchange for $8,000, she and representatives of Mayo Clinic continued to communicate. In those communications, Lippitt accused Mayo Clinic of copyright infringement, which accusations Mayo Clinic denied, in part because the copyright laws do not protect ideas or facts.

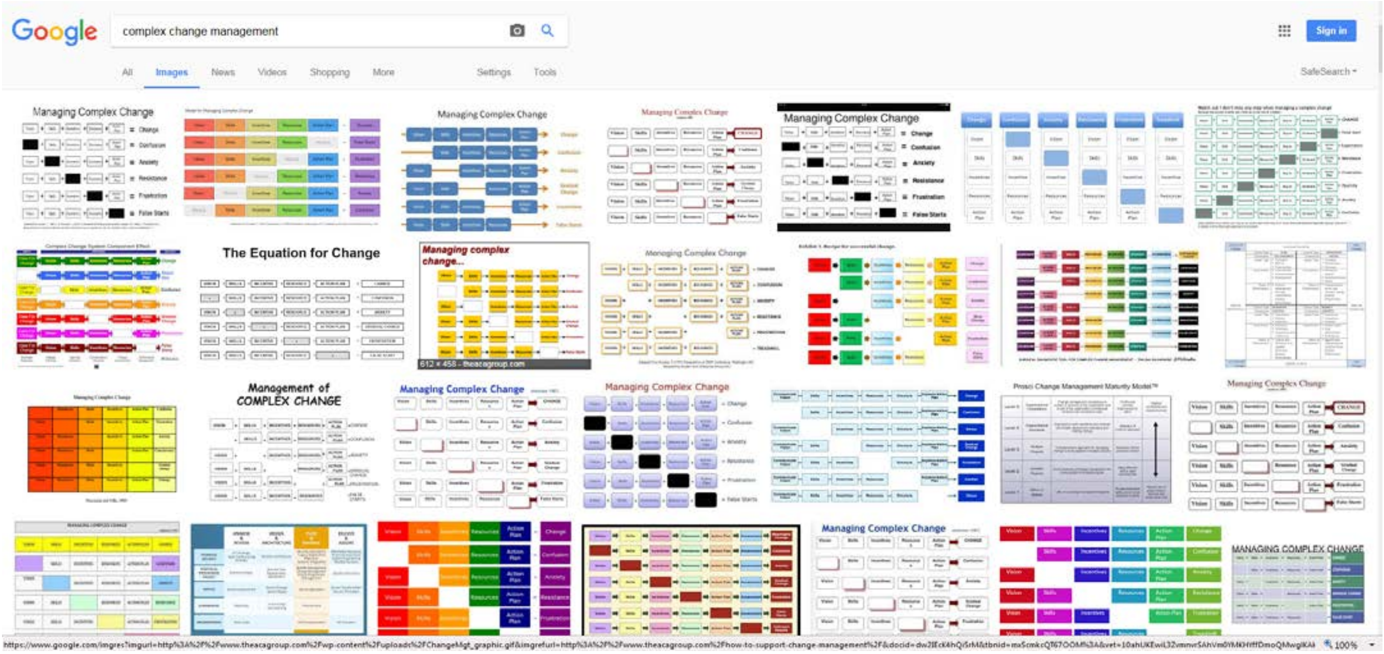
17. On November 7, 2016, counsel for Mayo Clinic wrote to Lippitt disagreeing with the accusation of copyright infringement but nevertheless offering to

resolve this dispute for $5,000. Her attorney Kristin Jahn wrote back demanding payment of $75,000 in order to resolve Lippitt's claims of copyright infringement.

18. On November 22, 2016, counsel for Mayo Clinic wrote again to counsel for Lippitt, denying infringement, denying knowledge of the Copyrighted Materials and setting forth in detail the reasons why Lippitt's materials are not subject to copyright protection, including that copyright law does not protect facts or ideas. Mayo Clinic also rejected Lippitt's demand of $75,000, and offered to resolve this dispute for $10,000. A copy of Mayo Clinic's letter dated November 22, 2016 is attached hereto as Exhibit A.

19. Thereafter, Mayo Clinic and Lippitt's counsel exchanged additional information regarding the history of Mayo Clinic's use and development of charts evidencing the concept of change management for use in its Quality Academy, along with the many other sources of similar charts in the marketplace which convey the same factual information.

20. For example, a simple Google search of "complex change management," generates a large number of search results for similar charts the vast majority of which are not attributed to Lippitt, including the following search result images:


Google
complex change management
Sign in
All
Images
News
Videos
Shopping
More
Settings
Tools
SafeSearch
Managing Complex Change
The Equation for Change
Managing complex change...
Management of COMPLEX CHANGE
MANAGING COMPLEX CHANGE

21. Following these discussions, Mayo Clinic did not hear from Lippitt's counsel until on or about March 15, 2017, at which time counsel for Mayo Clinic received a letter from a new attorney for Lippitt dated March 15, 2017. A copy of the March 15, 2017 letter is attached hereto as Exhibit B.

22. In the March 15 letter, Lippitt and Enterprise Management again accused Mayo Clinic of wrongfully using the Copyrighted Materials from 2011 to 2015. Ex. B, p. 2 ("I have little doubt that discovery will show that the charts Mayo Clinic's Quality Academy used from 2011 to 2015 were based on a copy of charts attributing their content to Dr. Lippitt").

23. In addition, in the March 15 letter, Lippitt and Enterprise Management threatened to commence litigation:

> Please be on notice that Dr. Lippitt is prepared to file a copyright infringement action against Mayo Clinic if this matter cannot be resolved. Attached is a draft complaint for your consideration.

Ex. B, p. 1.

24. And in the March 15, 2017 letter, Lippitt and Enterprise Management increased their demand to $125,000 in order to resolve the dispute.

Actual Controversy Between Mayo Clinic and Defendants

25. Based on the continued allegations of copyright infringement and threats to "file a copyright infringement action," an actual controversy exists between Mayo Clinic and Defendants with respect to infringement of the Copyrighted Materials.

COUNT I
DECLARATORY JUDGMENT OF NON-INFRINGEMENT

26. Mayo Clinic restates and realleges each of the allegations set forth in preceding paragraphs as if fully set forth herein.

27. Mayo Clinic has not infringed and is not infringing the Copyrighted Materials.

28. Mayo Clinic is entitled to a declaratory judgment of non-infringement of the Copyrighted Materials.

JURY DEMAND

29. Mayo Clinic demands a jury trial for all claims so triable.

RELIEF REQUESTED

WHEREFORE, Mayo Clinic asks the Court for:

1. A judgment declaring that Mayo Clinic has not infringed and is not infringing the Copyrighted Materials;

2. An award of such other and further relief the Court deems just and proper.

Dated: March 29, 2017

s/ Cynthia A. Moyer

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